



4410-15

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree under the Safe Drinking Water Act

On March 18, 2019, the Department of Justice lodged a proposed consent decree with the United States District Court for the Eastern District of New York in the lawsuit entitled *United States of America v. City of New York and New York City Department of Environmental Protection*, Civil Action No. 1:19-cv-01519-RJD-CLP.

The United States filed this lawsuit to seek civil penalties and injunctive relief for violations of the Safe Drinking Water Act, 42 U.S.C. 300f, *et seq.* The alleged violations stem from the City's failure to place a cover over its Hillview Reservoir, a 90-acre treated-water reservoir in Yonkers. The reservoir holds water destined for consumers in New York City. The water arrives at the reservoir after being disinfected at the City's upstream Catskill-Delaware Water Ultraviolet Disinfection Facility, sometimes referred to as the Eastview facility, in central Westchester. The purpose of covering the reservoir is to protect the disinfected water from microbial recontamination during storage. The cover is required by the Long Term 2 Enhanced Surface Water Treatment Rule. 40 CFR 141.714.

The proposed consent decree will require the City to build the cover. At times during cover construction, the City will operate only one of the reservoir's two ("East" and "West") basins while the other basin is off-line during construction of that basin's cover (so-called "single basin operation"). The City represents that to ensure reliable water delivery during single basin operation, two precursor projects must be completed first. These two projects are the Kensico-Eastview Connection and the Hillview Reservoir Improvements. The Kensico-Eastview Connection will be a new underground aqueduct between the Eastview facility and the further upstream Kensico Reservoir. The Hillview Reservoir Improvements will include replacing

sluice gates and building a new connection between the reservoir and downstream water distribution tunnels. These two precursor projects will be built on parallel schedules. The proposed consent decree will require the City to complete the Hillview Reservoir Improvements by 2033 and the Kensico-Eastview Connection by 2035. After that, the City will be required to build the East Basin cover, with full operation to start by 2042. The City will then be required to build the West Basin cover, with full operation to start by 2049.

The proposed consent decree also requires the City to pay the United States a civil penalty of \$1 million for the City's past violations of federal requirements. In addition, the consent decree provides that the City will pay New York State a civil penalty of \$50,000 and perform a state Water Quality Benefit Project to settle the State's claim for penalties for violations of a state administrative order. The Water Quality Benefit Project will establish a redundant supervisory control and data acquisition control center. This "SCADA" control center will allow more reliable operation of the City water supply's SCADA system.

The publication of this notice opens a period for public comment on the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States of America v. City of New York and New York City Department of Environmental Protection*, D.J. Ref. No. 90-5-1-1-10223/1. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by e-mail or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By e-mail	pubcomment-ees.enrd@usdoj.gov

By mail	Assistant Attorney General U.S. DOJ – ENRD P.O. Box 7611 Washington, D.C. 20044-7611
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During the public comment period, the consent decree may be examined and downloaded at this Justice Department website: <https://www.justice.gov/enrd/consent-decrees>. We will provide a paper copy of the consent decree upon written request and payment of reproduction costs. Please mail your request and payment to:

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P.O. Box 7611
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